

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

v.

18-CR-191 (JLS) (MJR)

PAUL KRIEGER,

Defendants.

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**DECISION AND ORDER**

Defendant Paul Krieger is charged by superseding indictment with conspiracy to enter railroad cars containing interstate shipments with the intent to commit larceny therein and 11 counts of breaking into and larceny from interstate carrier facilities. Dkt. 73.

On September 20, 2018, United States Magistrate Judge Michael J. Roemer was designated to hear and determine, and report and recommend on, all pre-trial proceedings under 28 U.S.C. § 636(b)(1)(A) and (B). Dkt. 21. This case, originally assigned to United States District Judge Lawrence J. Vilardo, was reassigned to this Court on January 3, 2020. Dkt. 49.

On January 4, 2019, Krieger moved for discovery. Dkt. 30. Krieger filed supplemental pre-trial motions on December 3, 2020, requesting discovery and suppression of evidence recovered pursuant to a search warrant. Dkt. 80. The government opposed. Dkt. 82. Krieger then filed an affidavit of standing in support of his motion to suppress. Dkt. 84. The government filed a supplemental response on January 26, 2021. Dkt. 87. Krieger did not reply.

Judge Roemer issued a Report, Recommendation, and Order (“R&R”) on March 10, 2021. Dkt. 91. He recommended that this Court deny Krieger’s motion to suppress. *Id.* at 3-12. In addition, Judge Roemer decided Krieger’s discovery motions and the government’s cross-motion for discovery. *Id.* at 12-22.

Objections to the R&R were due by March 24, 2021. None was filed. On March 26, 2021, the government filed a notice of lack of objections to the R&R. Dkt. 92.

Regarding the referral of dispositive matters, a district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Crim. P. 59(b)(3). A district court must conduct a *de novo* review of those portions of a magistrate judge’s recommendation to which a party objects. *Id.* As for non-dispositive matters, a district court must consider timely objections to a magistrate judge’s order and modify or set aside any part of the order that is clearly erroneous or contrary to law. 28 U.S.C. § 636(b)(1); Fed. R. Crim. P. 59(a). Here, Krieger’s motion to suppress is dispositive. The parties’ discovery motions are non-dispositive.

This Court has carefully reviewed the thorough R&R, the record in this case, and the materials submitted by the parties. Based on a *de novo* review, the Court accepts and adopts Judge Roemer’s recommendation to deny Krieger’s motion to suppress.

In addition, after reviewing Judge Roemer’s R&R and the relevant material, the Court is unable to conclude that Judge Roemer’s decision regarding the

discovery motions was clearly erroneous or contrary to the law. *See* Fed. R. Crim. P. 59(a).

**CONCLUSION**

For the reasons stated above and in the R&R, the Court DENIES Krieger's motion to suppress (Dkt. 80). The Court AFFIRMS Judge Roemer's order as to discovery.

The parties shall appear before this Court on April 7, 2021, at 10:30 a.m. for a status conference to set a trial date.

SO ORDERED.

Dated: April 5, 2021  
Buffalo, New York



JOHN L. SINATRA, JR.  
UNITED STATES DISTRICT JUDGE